

### REMARKS

Claims 1-9 are pending in the present application. Claims 10-55 have been cancelled. The Applicants reserve the right to prosecute the subject matter of the cancelled claims in future continuing applications. Claim 1 has been amended to more particularly describe the present invention and claim 6 has been amended to correct a typographical error. Claims 56-59 have been added. Support for the amendment and new claims can be found throughout the specification, for example, in paragraphs 22, 47, and 59. The Specification has been amended to reflect that U.S. Application No. 09/788,943 is now U.S. Patent No. 6,613,018. No new matter has been added.

The present invention is directed to kits for the delivery of compositions into intraosseous spaces comprising at least one cannula, at least one stylet insertable into a cannula and being movable therein, at least one catheter having a high-porosity tip that is insertable into the cannula, and a system for delivery of aliquots of the composition into the intraosseous space via the catheter.

Claims 1-9 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Reiley (U.S. Patent No. 7,081,122) in view of Lewis (U.S. Patent No. 4,186,745) in view of Buscemi (U.S. Patent No. 5,500,013). The Applicants respectfully disagree.

In order to establish a *prima facie* case of obviousness, the suggestion or motivation to combine the cited references must be set forth in the references themselves or by the Examiner. M.P.E.P § 2142. Neither the Examiner nor the cited references set forth a suggestion or motivation for the combination of Reiley and Lewis to provide the claimed invention, as currently amended.

Lewis et al. does not teach porous catheters having high-porosity tips wherein the porosity is about 60% to 90%, as claimed in the present invention. Moreover, the porous catheters of Lewis et al. facilitate the controlled flow of non-viscous, non-restorative substances such as water, antiseptics, antibiotics, and enzymes. Lewis col. 2, lines 45-47. In contrast, as currently amended, the kits of the present invention deliver restorative or viscous injectable compositions, such as synthetic bone void fillers and polymethylmethacrylate, hydrogels, and replicated bone marrow. See specification, paragraph 0059. Since Reilly in

view of Lewis does not teach or suggest all the limitations of the pending claims, the Applicants respectfully request that the rejection be withdrawn.

Claims 1 and 2 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-14 of U.S. Patent No. 6,613,018 (the 018 patent). The Applicants respectfully disagree.

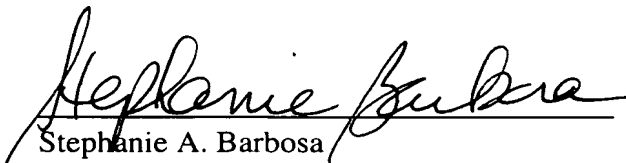
The Examiner states that claim 1 of the 018 patent includes “many more elements,” is more specific, and is therefore a “species” of the “generic” claim 1 of the pending application. The Applicants disagree. Claim 1 of the 018 patent comprises the following elements: a plurality of stainless steel catheters having graded markings on an external surface thereof, a plurality of syringes of different volumes, and a plunger. Claim 1 of the pending application comprises the following elements: at least one cannula, at least one stylet insertable into the cannula and being movable therein, and at least one catheter having a high-porosity tip that is insertable into the cannula. The elements of claim 1 of the pending application and the elements of claim 1 of the 018 patent do not have a genus-species relationship; therefore, claim 1 of the 018 patent cannot anticipate claims 1 and 2 of the pending application, as the Examiner suggests. As such, the Applicants respectfully request that this rejection be withdrawn.

The Applicants respectfully submit that the foregoing represents a *bona fide* attempt to advance the present case to allowance. Applicants submit that this application is now in condition for allowance. Accordingly, an indication of allowability and an early Notice of Allowance are respectfully requested. If the Examiner believes that a telephone conference would expedite prosecution of this application, please telephone the undersigned at 215-564-8918.

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**PATENT**

  
Stephanie A. Barbosa  
Registration No. 51,430

Woodcock Washburn LLP  
Cira Centre, 12<sup>th</sup> Floor  
2929 Arch Street  
Philadelphia, PA 19104-2891  
Telephone: (215) 568-3100  
Facsimile: (215) 568-3439